

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: WELDING FUME PRODUCTS :  
LIABILITY LITIGATION : Case No. 1:03-CV-17000  
: (MDL Docket No. 1535)  
: : JUDGE O'MALLEY  
: :  
: : MEMORANDUM AND ORDER  
: :

It has come to the Court's attention that various counsel have stated publicly that the Court has ordered the parties to engage in mediation. This statement, in turn, has led to various conjectures and to requests that assorted deadlines be postponed pending mediation.

The Court issues this Order to end inappropriate speculation and to make the record clear. Although this Court did, *sua sponte*, raise the concept of mediation, the Court has not ordered any mediation in this case. In particular, this Court earlier scheduled the next MDL bellwether case – *Byers v. Lincoln Electric Company* – for trial in July of 2008. The defendants requested this trial be moved to later in the year, to accommodate the extensive discovery necessary to make the case trial-ready. The Court agreed to reschedule the trial for November of 2008. The Court also suggested it might be useful for the MDL parties and the Court to use the newly-available July time slot to engage in discussions aimed at outlining potential resolutions of some portion of the parties' disputes – whether this portion be limited to minor but recurring issues, or something larger in scope.

Despite this suggestion, the Court has not yet scheduled any such discussions, nor mandated a global mediation. Further, the Court has never contemplated that any such discussions, if they do occur,

would work to delay any deadlines, even though they would likely entail substantial preparation efforts. The Court makes clear here that it expects the parties will pursue all deadlines in their welding fumes litigation accordingly.

**IT IS SO ORDERED.**

/s/ Kathleen M. O'Malley

**KATHLEEN McDONALD O'MALLEY**  
**UNITED STATES DISTRICT JUDGE**

**DATED:** May 12, 2008